

104  
MARKUP OF THE COMMITTEE'S RESPONSE TO  
THE HOUSE'S RECONCILIATION INSTRUCTIONS  
AND CONSIDERATION OF THE COMMITTEE'S  
RECOMMENDATIONS WITH RESPECT TO THE  
DISMANTLING OF THE DEPARTMENT OF  
COMMERCE

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Y 4. IN 8/16:C 73/4

Markup of the Committee's Response...

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BEFORE THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTH CONGRESS  
FIRST SESSION

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SEPTEMBER 21 and 27, 1995

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Printed for the use of the Committee on International Relations



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# MARKUP OF THE COMMITTEE'S RESPONSE TO THE HOUSE'S RECONCILIATION IN- STRUCTIONS and CONSIDERATION OF THE COMMITTEE'S RECOMMENDATIONS WITH RESPECT TO THE DISMANTLING OF THE DEPARTMENT OF COMMERCE

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THURSDAY, SEPTEMBER 21, 1995

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:30 p.m., in room 2172, Rayburn House Office Building, the Honorable Benjamin A. Gilman chairman, presiding.

Chairman GILMAN. Our hearing will come to order. Members please take their seats.

The Committee on International Relations resumes its sitting of September 19, 1995, and will first take up a matter relating to the Department of Commerce Dismantling Act.

We will try to move rapidly. I know many of the Members are anxious to get on their way.

Each Member now should have a copy of a letter from this committee to the Speaker waiving any further consideration of H.R. 1756, the Department of Commerce Dismantling Act.

I want to assure our colleagues that this letter also assures that the International Relations Committee will protect its current jurisdiction over trade, over export promotion, and over export administration issues.

The Government Reform and Oversight Committee is at this moment now putting together final details on legislation establishing a unified Trade Office, including all of the functions of the current Office of the U.S. Trade Representative, the International Trade Administration, Department of Commerce, and several trade-related agencies, including OPIC, Eximbank, and the Trade and Development Agency.

As I noted in our letter that is now before you, the majority leader is in full agreement that International Relations and Ways and Means will maintain vigilant oversight and jurisdiction over the proposed Trade Office.

Our committee will maintain sole jurisdiction over export controls, over export promotion, the U.S. commercial service, export insurance, OPIC, and the trade and development agencies.

Ways and Means will maintain its present jurisdiction over trade negotiations and trade sanctions.

I want to thank Chairman Roth for his excellent work on this issue and all of the other Members who worked with him, including Congressman Brownback, and Congressman Houghton.

You have the letter before you, and if there are no objections, we will be passing on this letter as the general feeling of our committee to the Committee on Government Oversight.

Without objection, the letter will be submitted.

Mr. BEREUTER. Mr. Chairman?

Chairman GILMAN. Yes, Mr. Bereuter?

Mr. BEREUTER. Thank you, Mr. Chairman. I just wanted to reiterate my concern that as we consult with our colleagues, and in particular Chairman Clinger, that we continue to press for the continuation of the feasibility studies now conducted by the TDA.

I also wanted to assure the chairman, because of the good work of our staff here at our meeting last night, I was able to convey directly to the majority leader, Mr. Armey, our thoughts about specific appropriate jurisdiction requirements for this committee. He seemed to be pleased with the fact that we had spent the time on staff to do that.

So I just wanted to inform the chairman and the committee about that.

Chairman GILMAN. I thank the gentleman for his comments.

Anyone else wish to comment?

Yes?

Mr. McNULTY. I have no objection, but I would just like to reserve an objection since the ranking member is on his way and may wish to speak on this.

Chairman GILMAN. Well, we will proceed. And if he has some comments, we will take it up at the time that he comes back. There is no vote needed on this. It is a submission of the general consensus of our committee.

I thank the gentleman.

[The letter to the Speaker appears in the appendix.]

Chairman GILMAN. We will now take up the matter of the committee's response to the Reconciliation Instructions to the Committee, contained in Section 106 of the Concurrent Resolution on the Budget for Fiscal Year 1996.

The committee has been instructed to report legislation providing that direct spending does not exceed \$14.243 billion in outlays in 1996, \$62.072 billion in outlays for fiscal years 1996 through the year 2000, and \$83.221 billion in outlays in fiscal years 1996 through the year 2002.

In addition, our committee has been instructed to report changes in laws that would reduce the deficit by one \$1 million in fiscal year 1996, \$14 million in fiscal years 1996 through 2000, and \$22 million in fiscal years 1996 through 2002.

Taking the two parts of our instructions in the aggregate, we are required to save \$4 million in fiscal year 1996; \$36 million in fiscal years 1996 through 2000, and \$59 million in fiscal years 1996 through 2002.

Ordinarily, we could accomplish this goal by mirroring the results of the markup of the Federal system changes in the Foreign Service Retirement System.

However, since the Committee on Government Reform and Oversight has not yet agreed on the pension changes it can support, I think our committee ought to move forward. I will propose that we adopt the modification of provisions originally added to H.R. 1561 in the committee by our colleague Tom Lantos.

That provision, now Section 2353 of H.R. 1561, allows the Department of State to recover fees from those treated in State Department health facilities overseas from their insurers. Currently, the Department does not have this authority. Section 2353 as currently structured permits the Secretary of State to retain all collected fees, subject to appropriation.

The changes we would suggest would direct that these amounts be deposited in the Treasury as a miscellaneous offsetting receipt.

The Budget Committee advises us that such increases in miscellaneous offsetting receipts are treated as decreases in spending for the purposes of measuring our compliance with the Budget Resolution.

An additional change between the provision in the amendment in the nature of a substitute that will be offered in Section 2353 would bring forward the effective date of this provision from October 1, 1996, to the date of the enactment of the Reconciliation bill. This presents no administrative difficulty, in my view, because the provisions do not mandate any efforts by the Secretary to collect these fees before he is ready to do so.

Although I am proposing this health care provision, let me make it clear it would be my intention to defer, in the end, to the work of the subconference on employee pensions should they recommend any changes in employee pensions.

I would then recommend that our subconference report the same changes they recommend for the foreign service. In other words, as has been the case in the past, the changes that are made in civil service pensions ought to apply equally to the Foreign Service Retirement System.

I would substitute those retirement provisions for the provisions of Section 6001 of the Reconciliation bill, and I move to return Section 2353 of H.R. 1561 to its present form in our discussions with the Senate on H.R. 1561.

The next subject I would like to address is the re-enactment by reference of Division A of H.R. 1561, the reorganization provisions of the American Overseas Interests act, so that we can begin a conference with the Senate on that bill.

Although we have not exercised our privileges to do so in this committee, many committees of Congress have used the reconciliation bill as a vehicle to advance consideration of important legislation.

H.R. 1561, as you know, has hit a roadblock in the Senate. I propose that we pass Division A of H.R. 1561 again today, without any amendments except those necessary to comply with our budget reconciliation instructions.

That would allow us to get into conference with the Senate. This is the purpose of re-passing this bill today. Moreover, re-passing

this bill will signal our determination to move this legislation forward.

I should note that in a subconference with the Senate on our provisions, only members of this committee will be House subconferees. We will not undercut our jurisdiction; rather, we will enhance our ability to act.

If we get into conference with the Senate, I think we can bridge the gaps between the Senate committee bill and our bill, as well as the gaps between us both and the administration and the minority, both here in the Senate.

If our agreement falls under the so-called "Byrd Rule" against "extraneous" reconciliation legislation, we will take whatever action is necessary to try to prevent the overall reconciliation conference from being threatened.

As you know, it takes 60 votes to waive a "Byrd Rule" point of order. If our agreement can get 60 votes, that would be fine. If it cannot, any informal agreement we reach—which may include other aspects of H.R. 1561—is likely to be added to other legislation, such as the debt limit, that Senators will be disinclined to filibuster or the President be disinclined to veto.

So I hope our efforts are taken seriously by the administration and that they will engage in serious discussions and negotiations with us.

The administration needs to understand that the forthcoming reconciliation conference may be its last chance to participate in a constructive effort on the subject of reorganization.

Because of the "Byrd Rule," we know that we will need bipartisan agreement to pass reorganization as part of reconciliation; we are under no illusions about that.

But if we cannot reach a bipartisan consensus, we are likely to reach a consensus on this side of the aisle and to impose it on some piece of must-pass legislation.

Let me take a moment, finally, to address the issue of legislation by reference, because some members may find it strange to pass a long bill in a few lines.

Legislation by reference in aid of getting a big foreign policy bill to conference with the Senate would hardly be novel for our committee.

For example, in May 1988, the House Rules Committee, at the request of this committee's leadership, passed a self-executing rule adding by reference the 350-page 1987 foreign aid bill, H.R. 3100, as it had passed the House, to a bill reauthorizing the Overseas Private Insurance Corporation. The Republican leadership of this committee went along with that, even though there was sharp partisan disagreement over H.R. 3100 and even though the administration had threatened to veto H.R. 3100.

In the case of H.R. 3100, I should add that after the Republican substitute was defeated on the floor on, essentially, a party-line vote, many Members of the then-Republican minority on this committee, then-Ranking Member Bill Broomfield and myself included, not only voted for the bill on final passage, so as to move the process forward and help protect the interests of the committee, but also were willing to support the effort that was made later on to

re-pass it by reference on the floor and to move it toward conference with the Senate as part of the OPIC legislation.

Again, in May 1990, this committee reported legislation, H.R. 4610, Title II, which would have enacted by reference H.R. 2655, as it has passed the House in June 1989. That measure weighed in at 658 pages.

So let me outline the procedure we will follow today.

At first we will recognize Mr. Hamilton, the distinguished ranking minority member, for any opening comments he may wish to make. Other members will be recognized under the 5-minute rule during the debate on the committee print.

We will then lay a committee print before the committee. Immediately thereafter a member of the majority will offer an amendment in the nature of a substitute, which makes technical and drafting changes to the text that we circulated last week, which deletes a provision allowing 7.5 percent of funds collected to flow to the Department, subject to appropriations, and changes the effective date of Section 6001.

In addition, the enactment by reference of H.R. 1561 will now be confined to the reorganization provisions, Division A of that bill.

The amendment in the nature of a substitute will be read. It will then be subject to amendment.

I understand that an amendment may be offered to strike the section that enacts Division A of H.R. 1561. That is certainly a fair position to take, and I can certainly understand why such a motion might be made.

On the other hand, I think that we have had exhaustive debate on the merits of reorganization Division A of H.R. 1561 and we should not prolong that debate.

The House has already spoken on this bill. I simply want to move it on to conference, and I do hope and intend to work with the minority in the House and Senate, and with the administration, in conference.

I now recognize Mr. Hamilton.

MR. HAMILTON. Mr. Chairman, I want to be clear here. I apologize for arriving a little late to the committee.

I have in front of me here the letter addressed to the Speaker. If I read that letter correctly, you are waiving the International Relations Committee's jurisdiction with respect to H.R. 1756, the Department of Commerce Dismantling Act.

Is that correct?

CHAIRMAN GILMAN. That is correct, Mr. Hamilton, but also reserving our jurisdiction over the important aspects of export administration.

MR. HAMILTON. Well, Mr. Chairman, I want to express my very strong objection to the procedures that are being used here.

First of all, with regard to waiving the jurisdiction of the Department of Commerce Dismantling Act, that really is a very important piece of legislation. Major aspects of the bill are in the jurisdiction of this committee.

If I understand correctly, the Ways and Means Committee met and acted. And I think one other committee, perhaps the Commerce Committee, did the same. But we are not acting. We simply

waived jurisdiction. That is a major item, and I think it is a serious mistake to waive action by this committee on reconciliation.

Your indication that you will include all or part of H.R. 1561 in the reconciliation bill also concerns me a great deal.

Now I think we have to be very clear what we do when we take a major piece of legislation and put it in the reconciliation bill. That is a travesty of the normal legislative process. It undercuts all the normal procedures. It shuts out the Senate from any ability to influence the significant changes in H.R. 1561. It removes our committee from significant participation in the conference. And I really think it defaults our responsibilities as members of this committee to these important pieces of legislation.

Look, I understand that the Democrats do not necessarily come with clean hands to the reconciliation bill and that that process has often been abused. But I do not think now that past abuses justify compounding it.

Reconciliation bills very severely constrain the time for debate and the opportunity to amend. The rules that customarily follow or govern reconciliation bills are very restrictive rules, despite the extraordinary scope of a reconciliation bill. And the rule, as we all know, is designed to keep the package intact and not to weaken it in any way.

If I recall correctly, the Senate has 20 hours total debate on the reconciliation package, which is usually thousands of pages long; and that amounts to about 12 minutes for each Member of the Senate.

Now, we are going to have a reconciliation bill that is going to have Medicare reform. It is going to have Medicaid reform. It is going to have a tax provision of major proportions. Apparently it is going to have all the foreign aid reorganization proposals. It is going to have an agricultural bill in it. It is going to have scores of other bills of enormous and major importance in it. And we will have very, very limited opportunity for debate.

We all know that floor amendments to reconciliation are very difficult. Amendments have to be defined, as I recall, as deficit neutral in the reconciliation bill. And what happens, in effect, in a reconciliation bill—and let us be blunt about this—it puts enormous power into the leadership of the Congress. And it takes away power from committees, strips us of all kinds of opportunities to affect legislation. And in this case, you strip the U.S. Senate of the opportunity to act on H.R. 1561, the reorganization proposal.

I do not see how you can support or defend this procedure that you are putting upon us today. You bypass the U.S. Senate. You forfeit committee jurisdiction. You forfeit this committee having impact on the Department of Commerce issue. You put these important foreign policy issues in with a thousand other issues, and they simply will not get adequate consideration.

We will get a reconciliation bill 1 day, and we will probably be asked to vote on it in a matter of hours; it will be thousands of pages long; it will include the most complex legislative language that you can imagine; and we will be asked to vote on it in a matter of a few hours.

That is not, I have to acknowledge, unprecedented. But if the practice was bad in previous Congresses, it is going to be worse in

this one. And I think that authorizing committees simply have to see what is happening to them. And what is happening is we are giving up the power to influence legislation. We are just giving it up, because we know what that reconciliation conference is going to be like. It is going to be a huge number of Members, and our participation in that will be very, very limited, indeed.

So I object very strongly to the procedures that are being followed here. I do not see how any person can defend these procedures as fair.

And, furthermore, you are giving away the store. You are giving away the jurisdiction of this committee. And I object to that. It is a travesty of the normal process. We lose control over the substance of this legislation.

And, Mr. Chairman, I object very strongly to what you are doing. I understand. I appreciate the pressures you are under. You and I have had a very good working relationship, and that will continue. But this procedure is simply beyond the pale, and I will object to it.

Chairman GILMAN. Mr. Hamilton, I thank you for your remarks. Of course, we are all concerned about maintaining our jurisdiction; and that is essentially why we are now, once again, trying to have the House reconsider this measure as part of the reconciliation bill so that we do not lose jurisdiction, so that the measure will go into conference. We are trying to find as many viable methods of attacking these problems so that we can get into a conference with the Senate.

As you know, the Senate has been delaying this measure. It has not taken up the measure. And we believe that it will not be taken up before the time passes for the appropriate action. And it is for that reason that we are trying to attach this to the reconciliation bill.

The committee has acted on this bill. The House has acted on the bill. Now we want to see the conference committee enact this bill.

So we are not trying to waive our jurisdiction. We are trying to reinvigorate our jurisdiction.

Mr. HAMILTON. Mr. Chairman, may I respond to that?

Chairman GILMAN. Yes.

Mr. HAMILTON. Look, what do you mean you are not waiving jurisdiction? I have a letter right here in front of me signed by you to the Speaker of the House with respect to the Department of Commerce legislation, which contains dozens and dozens of important issues for this committee, and you simply waive the jurisdiction.

Chairman GILMAN. I was referring to 1561. Yes, with the Commerce measure, we did waive that. The Government Reform and Oversight Committee is considering the bill at this moment. They have asked other committees to waive their jurisdiction so that there could be a consolidated procedure in the Government Reform and Oversight Committee.

Mr. HAMILTON. Mr. Chairman, I fully understand what happens there, and so do you. What happens when we waive is that we pass this responsibility on to the leaders. And the decisions, then, with regard to the Department of Commerce that are in the jurisdiction of this committee, will not be made by this committee. They will

be made by a handful of people, operating in secret, behind closed doors, put into a reconciliation bill, given to us at 2 a.m. in the morning, and we will vote on it at 10 a.m. in the morning, or some such procedure, with very little opportunity to amend, almost no opportunity to affect it.

Now, we know what happens on these reconciliation bills. If this is the way you want to do it, you can do it this way. You have the power. You have got the votes. You can ram it down our throats. I do not have any doubts about it. But I hope everybody on this committee, majority and minority, thinks mighty hard about what we are doing in this committee today.

Chairman GILMAN. Mr. Hamilton, I might add that Mr. Roth has been a key actor in fashioning this measure, who is a Member of our committee, and so has Mr. Brownback and so have I. I am a Member of the Government Reform and Oversight Committee. We intend to voice our concerns with regard to the measures as it comes out of a final consideration by the Government Reform and Oversight Committee.

Mr. Brownback?

Mr. BROWNBACK. Thank you, Mr. Chairman. I appreciate that, and I will be brief.

I appreciate what Mr. Hamilton is saying and the way he said it in talking about past history and that maybe we can learn from some of the mistakes or practices that were done there.

I think if everybody had a perfect world on this, this is not the way it would be done either. But I would point out to everybody on the committee that we have had more votes in this Congress than in the history, as I am told, to date, maybe in the history of any 1-year session. I am just under 700 votes that I have made.

We have got an aggressive agenda that we have put forward as a Congress where we started with the first 100 days, and then we are going to balance the budget, and we are going to make the first year installment on that, and we are going to produce a small government.

There is a saying that I have heard a number of people saying: "In evolution, small things happen slow; and in revolution, big things happen fast." And we are pushing fast and hard to be able to get some of these things completed of what we have said.

There has been a great deal of discussion on a number of these items. We are not waiving jurisdiction over these areas, as I have stated in the letter. There have been 11 committees that the elimination of the Department Commerce has been referred to. Government Reform and Oversight is in hearing on it right now.

So I think there are lessons to be learned from what you have stated of what has happened in the past. We are trying to get an aggressive agenda completed, and putting that on forward, and we have got to balance the budget. We are pushing aggressively to get those done. We have voted a lot. I do not think it is being overly rammed through, and we are trying to get a job done of what we told the American people we would do.

I would yield back to the chairman.

Chairman GILMAN. Thank you, Mr. Brownback.

Mr. Hamilton, I would respectfully point out that our agreement with regard to our letter to the Government Reform and Oversight

Committee does protect our jurisdiction and effectively provides substantive input from our committee into the trade reorganization process.

The actions of the Ways and Means Committee were effectively overturned by an agreement reached just last night with Mr. Arney which, specifically, will be ensuring that there will be a unified Trade Office and that the Trade Development Agency's functions will be retained and that our jurisdiction will be retained.

These I consider victories for our committee, not defeats.

Mr. HAMILTON. Will the gentleman yield?

Chairman GILMAN. I would be pleased to yield to the gentleman.

Mr. HAMILTON. Look, there will be no votes taken in this committee on the Department of Commerce issue.

What do you mean you are protecting the jurisdiction of the committee? We will not have any discussion of it. We will have no votes on it.

You simply turn the responsibility of deciding what goes into a Department of Commerce, or whatever its successor is, over to other people in this institution. We default our responsibilities. We simply pass them off. We do not do what the committee ought to be doing in this instance.

Now, you said you have had a lot of votes. Under the procedure you are following, there will not be a single vote cast in the U.S. Senate on the reorganization proposals.

You simply bypass the entire U.S. Senate. You can talk all you want about the number of votes we have had on the floor, and we have had a good many of them. But that has nothing to do with the responsibilities that this committee has. We have the responsibility to take up the Department of Commerce bill because it has a profound impact on trade and a lot of other responsibilities of this committee. And we simply default on that responsibility by waiving jurisdiction.

I understand you have been given certain assurances by the majority leadership concerning our jurisdiction, but let us be very clear about this. Informal agreements do not confer jurisdiction. They do not last beyond a single Congress, if they last for that, regardless of who the majority leader is.

And this committee does not have jurisdiction to lose, and we are losing a huge chunk today. But let us not have any doubt about what we are doing. What we are doing is passing onto a handful of people the responsibility of drafting a reconciliation bill. I will not have any input into it. Most of the members on this committee will not have any input into it. It will be done in secret. It will be done by a few people. And then it will be thrust out on the floor for a vote up or down with very, very limited chance of discussion.

I just think this procedure that is being followed today is indefensible.

Chairman GILMAN. Mr. Manzullo.

Mr. MANZULLO. I have utmost respect for Mr. Hamilton and agree with him on many points that he has made.

I think that the big problem is that this government is so big that Congress cannot take care of it, and there is no time to adequately handle the responsibilities that the Members of Congress have been given.

There are over 10,000 programs in this Federal Government. Every single one has its own constituency. Every single one has its own special interest group trying to preserve it. And every time we try to do something to try to pare back the size of the government, the howling takes place all the way from Washington, back to our individual districts, and right back to our telephone lines.

For people who are employed by the Federal Government have, many times, taken offense at what Members of Congress are trying to do in order to cut back the size and pare back the \$5 trillion national debt.

This thing is too big. I would encourage Members to check a chapter in the budget call "Generational Forecasts" that states: "Because of the \$5 trillion national debt, by the time every child born after 1992 enters the work force, he or she will have an effective local, state, and Federal income tax of between 84 and 94 percent." And that is guaranteed socialism and a guaranteed collapse of this republic as we know it.

And we sit here today looking at a reconciliation bill saying perhaps there is a better way. But there is no way in light of the fact that there is too much work to do because the government is too big.

And one of the things we are trying to do with the Department of Commerce when that comes up is somehow, some way preserve the pure commercial aspects of it and yet spin off those particular areas without which the government can adequately function.

So it is the size of this behemoth that has given rise to the frustrations of trying to deal with paring it back, leading to the reconciliation bill.

Chairman GILMAN. Thank you, Mr. Manzullo.

Mrs. Meyers.

Mrs. MEYERS. Mr. Chairman, I would just like to say, and I am not being critical of the Senate at all, but I think we all realize that because of the rules that they have in the Senate, there are a lot of issues that the Senate has not been able to consider and has not been able to get before them that the House has acted on many weeks ago.

I do not consider that this is our fault. And I think that the opportunity to put some kind of legislation before them that would move this reorganization along is appropriate. I would like to repeat that while we are waiving consideration of a bill, we are maintaining jurisdiction over all of the trade issues over which we have had jurisdiction in the past. And I do not feel like we are giving up anything in this bill.

A great many of us have worked on this. I have worked on the trade issue with Toby and I think some—I know a number of Members on the Republican side and I think some Members on the Democrat side have had input with Toby Roth on this bill.

So it is not like we have not had the opportunity to make input on it, even though this committee is waiving consideration.

Chairman GILMAN. Mr. Smith.

Mr. SMITH. Just very briefly, Mr. Chairman. I want to commend you for trying to keep this full committee as relevant to the legislative process as humanly possible.

We all know why H.R. 1561 and its counterpart on the Senate side is not being considered. A filibuster has been threatened and engaged in by our friends on the other side of the aisle in the Senate precluding action on the legislation.

So it seems to me that any way that we can thrust the issues that we care so deeply about back into the mix, and many of us will be conferees on that, so we will not lose our ability to shape that legislation and to provide our input into it.

I would have preferred that the entirety of H.R. 1561 be considered today, but half a loaf is better than no loaf at all; and I think what you are trying to do is very laudable, you are trying to keep this committee ahead of the process. We all know that the appropriators have usurped much of the authority of the authorizing committees, not just this one but many others.

So I think you are to be commended for your leadership on this and trying to find some vehicle. You know, reconciliation may be a very messy deal at the end of the day; but like sausage making, legislating almost by definition is very messy.

And my hope is that we can have a major impact on how foreign affairs is conducted and not punt to our friends on the appropriations side.

So, again, the only reason why we do not have an authorizing bill is a filibuster on the other side of the Capitol.

Mr. HAMILTON. Will the gentleman yield?

Mr. SMITH. I would be happy to yield.

Mr. HAMILTON. I do not understand that word "filibuster."

What happened on the Senate side was that the bill went onto the floor for 3 or 4 hours—I am not sure of the length of time. There was no filibuster. They just withdrew the bill.

Mr. SMITH. You know as well as I, because of Division A, that a filibuster was going to be entered into and——

Mr. HAMILTON. No, I do not know that.

Mr. SMITH [continuing.] The 60 votes that is requisite to break such a filibuster was not there.

Mr. HAMILTON. Mr. Smith, what happened is that they put the bill on for several hours and they withdrew it. There was no filibuster at any time. You were saying——

Mr. SMITH. There were two cloture votes.

Mr. HAMILTON. You were saying there was a filibuster. There was no filibuster. These statements that are being made——

Mr. SMITH. If the gentleman would yield—and I do have the time—there were two cloture votes. So I am not sure what the gentleman is talking about.

Chairman GILMAN. If the gentleman would yield, with regard to the Senate, I understand the reorganization issue is being debated on the floor at this very moment.

Senator Helms is offering the reorganization amendment to the Senate Foreign Operations Appropriations bill. So we may soon see some definition from the Senate with regard to that.

Mr. HAMILTON. Well, Mr. Chairman, would you yield please?

Chairman GILMAN. Would be pleased to.

Mr. HAMILTON. The statements made on the other side of the aisle are just extraordinary. One statement was that we are not giving up anything.

What we are giving up is the right to vote on the Department of Commerce proposals. That is what we are giving up. We are giving up the right to consider the question, in the committee.

The comment was made that you are keeping the committee relevant. How do you keep the committee relevant if you just forego your responsibilities? That is the reverse of being relevant.

Chairman GILMAN. Mr. Hamilton, if you will yield, I have been informed by the leadership that each committee has been asked to consider the bill has been asked to waive jurisdiction, to send it to the Government Reform and Oversight Committee so that one committee would have the thinking from all of the various committees by way of a consensus letter, as we have drawn, so that they can then put together an appropriate Commerce measure.

The Chair will now lay before the committee a Committee Print intended to respond to the reconciliation instructions to the committee under the Concurrent Budget Resolution.

Ms. BLOOMER. Title VI—Committee on International Relations, Section 6001. Recovery of costs of health care services for personnel of the Foreign Service of the United States and other eligible individuals.

[The Committee Print appears in the appendix.]

Chairman GILMAN. Gentleman from Pennsylvania is recognized.

Mr. GOODLING. Mr. Chairman, I have an amendment at the desk.

Chairman GILMAN. The clerk will read the amendment, please.

Ms. BLOOMER. Amendment in the Nature of a Substitute to the Committee Print Offered by Mr. Goodling.

[The Amendment in the Nature of a Substitute appears in the appendix.]

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with.

Chairman GILMAN. Without objection.

I would advise the Members that the differences between the amendment in the nature of a substitute are as follows:

One, a change in the effective date from 30 days after the date of enactment to the date of enactment;

Two, a series of drafting changes so that the provision conforms more precisely to the version added in the committee by Mr. Lantos; and

Three, the deletion of the provision providing that 7.5 percent of collections be available to the State Department, subject to appropriations; and

Four, the modification of the enactment-by-reference of H.R. 1561 as passed the House so that such enactment-by-reference applies only to Division A of the that bill.

I hope that the Members will support this amendment. It merely restates what this committee and the House has already enacted.

I might remind our colleagues that we worked extremely hard on this committee and on the floor, and I think we all know the arguments.

I urge our Members to go ahead and reform our antiquated foreign affairs bureaucracy. Please adopt this amendment.

Are there any amendments to the amendment in the nature of a substitute?

Mr. Hamilton.

Mr. HAMILTON. I have no amendments.

Chairman GILMAN. There being no amendments, the question now is on the amendment.

So many as are in favor of the amendment, say aye.

So many as opposed, say no.

The ayes appear to have it.

Are there any further amendments?

Mr. Goodling.

Mr. GOODLING. Mr. Chairman, I move that the committee approve the Committee print as amended as its recommendation to the House under the applicable sections of the Concurrent Resolution on the Budget and report that Committee Print to the Committee on the Budget.

Chairman GILMAN. The question is now on the motion.

So many as are in favor of the motion, say aye.

Mr. HAMILTON. Mr. Chairman.

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. I will object to this on the grounds that a quorum is not present and make a point of order that a quorum is not present.

Chairman GILMAN. The Chair will count for a quorum.

Mr. HAMILTON. Regular order, Mr. Chairman.

Chairman GILMAN. We are just tallying—

Mr. HAMILTON. We have no rolling quorums.

Chairman GILMAN. The Chair rules a quorum is not present.

The committee will stand in recess subject to the call of the Chair. We will meet again on Wednesday.

The committee stands in recess.

[Whereupon, at 3:25 p.m., the committee stood in recess until Wednesday, September 27.]



# MARKUP OF RESPONSE TO RECONCILIATION INSTRUCTIONS

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WEDNESDAY, SEPTEMBER 27, 1995

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 3 p.m., in room 2172, Rayburn House Office Building, the Honorable Benjamin A. Gilman chairman, presiding.

Chairman GILMAN. The committee will come to order. Will the gentleman and ladies, please take their seats.

Before we formally resume our sitting, the Chair would like to outline the procedural situation for the information of our members.

We were unable to muster a quorum on Thursday of last week. The Chair had just put the question on a motion to report our provisions to the Budget Committee but a point of order of a lack of a quorum was made. The Chair would like to allow the ranking minority member of the committee, Mr. Hamilton, to control 5 minutes to explain his position in opposition to this measure and I will control 5 minutes in reply. We will then have our committee resume our sitting. The pending business will be a vote on the motion to report. Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, I thank you. I made certain points, of course, the other day on Thursday, and I appreciate this opportunity to restate them.

I guess my view comes down to the responsibility of the committee and I am concerned about the manner in which we are exercising those responsibilities in two respects. One is the waiver of the Department of Commerce bill and the second is the inclusion of the reorganization proposals in the reconciliation bill. I think what happens when we proceed in that manner is to effectively exclude the committee from the exercise of its responsibilities. We don't have an opportunity to debate it. We don't have an opportunity to offer amendments. We don't have an opportunity to vote on major legislation like the Department of Commerce proposal. In other words, I feel that the committee should not be waiving its right to consider key pieces of legislation or key provisions of bills that come before us.

I understand that the chairman is in a very difficult position. He is responding to the demands that are made upon him by the leadership. But I think the committees do have to stand up here, and to waive committee jurisdiction of these issues means that most of us are shut out of the process, perhaps not all of us, but certainly

the minority is shut out of the process and we don't have any real opportunity to have an input into the legislation over which our committee has a very substantial jurisdiction.

I appreciate that the chairman has sought and received assurances from the leadership concerning jurisdiction of the committee, but that is an informal agreement and informal agreements do not confer jurisdiction. They don't last more than a single Congress regardless of who the majority leader may be.

But on a broader level, we are subverting the committee process here, and we are taking bills to the floor that have not been considered by the committees that know the substance best, and we are allowing provisions to be redrafted in conferences in the absence of members of committees that may have authorized them initially. I really do not think protecting the committee system should be a partisan issue, and I do not think that safeguarding the legislative process is a partisan matter.

With respect to the reconciliation, I just am really quite appalled at what I see happening. I repeat again that the Democrats do not come with clean hands to this debate. We abused that process when we were in the majority. But it seems to me we are headed today for a massive abuse of the process. We bypass the Senate. We exclude the minority from input. We forfeit the committee control. We default on our own responsibility. We put into the reconciliation bill thousands and thousands of items and bill is given very short consideration on the floor under a modified closed rule with limited debate and very little opportunity to offer amendments. This is a travesty of the normal process. It undercuts all normal procedures here and is simply not the way that this committee should operate or for that matter this institution should operate.

I think we in this committee lose control of substance. Control passes to the leadership and that does not mean the Speaker or the majority leader; it means in large part that the staffs do it on those items that are not most visible in the reconciliation bill.

So I think the process cries out for protest and I protest today. I strongly object to both the waivers and to the inclusion of the reorganization proposal in the reconciliation bill. I think it is absolutely an indefensible procedure, and I thank the gentleman for the opportunity to restate my case.

Chairman GILMAN. I thank the gentleman from Indiana for his comments.

I don't think we have to prolong our discussion. I do think we can make progress in a reconciliation conference. I tried to be quite clear in my remarks last week that we want to work with the administration, with the minority in both Houses. We can only move as part of reconciliation if we have 60 votes in the Senate.

The fact of the matter is there was a clear majority in the Senate against tabling the Helms reorganization proposal on a test vote taken last week when the foreign operations bill was being debated. The amendment then was withdrawn by Senator Helms so as not to delay action on that bill.

For those members who may not be familiar with the Senate's procedures, a controversial bill there can usually proceed if there is a unanimous consent to structure debate or if there are 60 votes

to cloture. Unanimous consent was withheld in the Senate. Cloture was not invoked on an essentially party line vote; therefore the reorganization bill was temporarily withdrawn.

So with great respect for my friend from Indiana, we ought not to hear about the Senate's lack of opportunity to debate this issue. It is inconceivable that any bona fide offer to work out a debate schedule on S. 908 would have been rejected. I am not aware of any such offer having been made and I am certain that if an offer is made it will be taken up by the chairman of the Committee on Foreign Relations.

As previously noted, we have debated all the issues surrounding reorganization extensively, both the committee and the House backed it, so let us now reaffirm our prior decisions and move on to a vehicle in which we can work out differences between the House and Senate versions of this bill.

The committee will now resume its sitting of September 19, which was first recessed until September 21, which was further recessed until this time for a lack of a quorum. A point of order that there was no quorum was made after the Chair had put the question on a motion by Mr. Goodling. Mr. Goodling had moved that the committee adopt the committee print as amended by an amendment in the nature of a substitute as its recommendation to the Committee on the Budget in response to the House reconciliation instructions. The Chair will suspend for just a moment.

Mr. ROHRABACHER. Mr. Chairman.

Chairman GILMAN. Mr. Rohrabacher.

Mr. ROHRABACHER. This is my seventh year here as a Member of Congress. It seems to me that when we were members in the minority we wanted our say, but we were not aimed at preventing the majority from trying to do their business, and I think that this display that we are seeing here today is really a pitiful display of the minority trying to prevent the majority from doing its business.

Mr. HAMILTON. Would the gentleman yield?

Mr. ROHRABACHER. Not until I am finished. I will be very happy to when I am finished.

I don't remember one time in my 7 years—in my 6 years as a member of the minority intentionally trying to prevent a committee that I was on from trying to do its business. And I don't like it and I don't think the people here on our committee like it. I don't think the public is going to like it, but I would be very happy to yield to my colleague.

Mr. HAMILTON. Well, I can appreciate the gentleman's point of view, but I just want to point out that not all the grievances are on your side here. You just waved consideration of the Department of Commerce bill. We had a lot of objections to that bill. You didn't even give us an opportunity to speak on it. We couldn't offer an amendment, we couldn't vote on it. You just took it out of the jurisdiction of the committee, waived it, and who is going to write that bill? I don't know who is going to write it.

Mr. ROHRABACHER. My colleague.

Mr. HAMILTON. Hold on. There are a lot of objections we have with regard to procedure.

Mr. ROHRABACHER. Were these objections based on what the Republican leadership decided? You see, in my 6 years—

Mr. HAMILTON. That doesn't make it right, does it?

Mr. ROHRABACHER. It doesn't make it right, but what makes it is for 6 years I realized that the majority of people in the Congress of the United States were members of another party and their leadership—and I had lots of complaints and their leadership had made decisions that I disliked. I don't remember participating—and Mr. Gilman was a senior member of this committee and other committees. I don't remember us participating in actions like this.

Mr. SMITH. Would the gentleman yield?

Mr. ROHRABACHER. Yes, I would.

Mr. SMITH. I would like to associate myself with the remarks of the gentleman, because I have been here 15 years and I don't recall that occurring, either. And as Chair of the Subcommittee on International Operations and Human Rights, we had a markup earlier in the year, gave ample notice, matter of fact we postponed it for a week at the request of the minority, and at the time of the markup were boycotted on H.R. 1564 after having no less than seven hearings, two of them were associated, the others were right on point, to discuss the content, the policy, the funding, and the like about that bill.

The same happened, I would observe to members of the committee, when we sought to hear from women who had suffered the cruelty of forced abortions who were being held by the Clinton administration, were going to be sent back, who were in Bakersfield, California, and at the appropriate time when we were going to subpoena those witnesses, a point of order was made and the members of the minority walked out of the room. That is no way to run a railroad.

I had substantive disagreements with my own party at times and with the minority party, but I think throwing up procedural roadblocks so that we cannot proceed does a disservice to the process. This is all—everyone knows what is in this bill, and again this seems to me to be a pattern that is emerging of trying to obstruct so that we cannot get on with our business.

Mr. HAMILTON. Would the gentleman yield?

Mr. SMITH. I will be happy to yield.

Mr. HAMILTON. I understand the gentleman does not agree with me on this. I want you to understand my position. You are following a procedure here with regard to waiver of committee jurisdiction on a very important bill and with regard to inclusion of another bill in the reconciliation bill. That is deeply offensive to the minority. That bypasses all definitions of fair procedure.

Now, Mr. Smith argues the reconciliation bill is no way to run a railroad. We all know what happens under the reconciliation bill. Thousands and thousands of pages in it, thousands and thousands of subjects, and it will come out under a modified closed rule, no opportunity to debate, no opportunity to amend. Is that the way to run a railroad?

Mr. ROHRABACHER. If I could reclaim my time?

Mr. HAMILTON. Absolutely not—you are entitled to that.

Mr. ROHRABACHER. It is my time.

Mr. HAMILTON. I want you to understand why many of the Democrats, most of the Democrats, are staying away here. We are deeply offended by this process.

Mr. ROHRBACHER. If you were running a railroad, I might be more inclined to forgive this type of tactic but we are not running a railroad. We are setting policy for the United States of America and we are fulfilling our obligations as elective Representatives to a democratic government.

I hate to tell you how many times that I was deeply offended during my 7 years here in the U.S. Congress over what the leadership in the Democratic Party had decided would be the order of the day. I do not remember—maybe someone can recall this for me—I do not remember walking out and intentionally trying to disrupt meetings so that the business couldn't be done because I was deeply offended, and I can tell you many times I was deeply offended but I was in the minority.

When you are in the minority in a democratic government, it isn't your job to obstruct the majority. It is your job to have your say and hope that the majority of the people of the country reelect you to positions of power, and what we see here is obstructionism, and I am sorry if you are deeply offended, but it is wrong.

I yield back the balance of my time.

Mr. HAMILTON. Do you defend the procedure your party is following on the reconciliation bill? Do you defend the procedure this committee has followed with regard to the waiver of its responsibilities on the Department of Commerce bill?

Mr. ROHRBACHER. I do not have to defend everything in order not to become an obstructionist, and I do yield back the balance of my time.

Chairman GILMAN. Mr. Roth.

Mr. ROTH. I do thank the chairman.

Mr. Chairman and members of the committee, I would just like to mention to the committee and to the ranking member that with reference to the Commerce legislation dealing with elimination of Commerce and so on that we did have extensive hearings in this committee. In fact, when we had any number of witnesses before this committee, every member of the subcommittee was given a chance to have his or her say, and we at that time report to you, Mr. Chairman. We had seven Republicans present, we had only one Democrat, Mr. Martinez from California. And I was hoping, in fact, I was asking some people on the committee staff to call around to make sure that every member of the minority party was invited and was given a chance to speak on that issue because I know it is a very important issue.

Mr. HAMILTON. Will the gentleman yield?

Mr. ROTH. Just 1 second.

And so I wanted every member, whether it was majority or minority party, to speak out on that particular issue so we did have extensive hearings on that.

Mr. HAMILTON. Would the gentleman yield?

Mr. ROTH. Yes, I will be happy to yield.

Mr. HAMILTON. We appreciate of course the opportunity to speak out. But Mr. Roth, with all due respect, we are being denied a vote on the Department of Commerce legislation. We are being denied an opportunity to amend. You have had the hearings and then you have skipped the whole legislation process. This committee is involved in drafting legislation. You are just ignoring it.

Mr. ROTH. Well, if I can take back the balance of my time, being that we called every Democrat and every Republican and we had a good give and take I thought, quite frankly, we had unanimous consent on the bill because no Democrat showed up.

Mr. HAMILTON. Well, the gentleman is in a dream world.

Mr. ROTH. Well, it had a happy ending, Mr. Hamilton.

Mr. Chairman, could I make an opening statement?

Chairman GILMAN. Yes, Mr. Roth.

Mr. ROTH. Mr. Chairman, this is one of the most important reforms we have in Congress, what we are facing here. The committee is trying to consolidation three out-of-date cold war agencies into the State Department.

Let us look at the legislation before us. We thoroughly debated this plan right here in this committee. The majority of this committee voted for the plan. The House passed it. For weeks it has been stalled in the Senate. Unless we add these to reconciliation, this plan might be lost. I am sure Mr. Hamilton wouldn't want to see that happen. AID illustrates why this consolidation is so important.

Mr. Chairman and members, here we have an agency whose programs have gone down 23 percent. Let me say something here. Can I have all the committee's attention when it comes to the AID? Here is an agency whose programs have gone down 23 percent but its operating costs have gone up. Its operating costs have gone up 41 percent. Certainly none of us in this committee want to stifle and stymie action when action is crying out. AID's operating costs are now more than half a billion dollars a year. AID's operating costs are more than half a billion dollars a year. If AID had a motto, it would be spend more to do less.

The only sensible course is for us to fold AID into the State Department. That is what we should be doing here, USIA and the Arms Control Agency. If this budget reconciliation will break the log jam, then we should do it. That is why, Mr. Chairman and the ranking member, Mr. Hamilton, let's see if we can't work together here. There is an old Russian proverb that says two mountains can never come together but two men always can. I am sure we can come together here. These delaying tactics are not going to get the job done. We have got a job to do. Let's go ahead and do it. If we are going to face reconciliation, let's make it the best possible plan we can, and I believe—

Mr. ROHRBACHER. Will the gentleman yield for a question?

Mr. ROTH. Why don't you ask your members to join. This reconciliation I am sure is what you and Mr. Gilman have been trying to do for many years. Remember back when when you two brought together trying to consolidate some of these agencies, trying to make them work better? Well, as I interpret this legislation, this is exactly what we are trying to do here.

Mr. ROHRBACHER. Will the gentleman yield for a question?

Mr. ROTH. I would be happy to.

Mr. ROHRBACHER. If we do not act today, is it true that the Budget Committee is actually going to be taking jurisdiction away from this committee? Is this a more timely process by giving the Budget Committee the power to make these decisions?

Mr. ROTH. I would answer my good friend, Mr. Rohrabacher, we are not going to let the Budget Committee take the jurisdiction

away from this committee, but I think you are right, it is important for us to act and we have to act now.

Mr. ROHRABACHER. Mr. Chairman, maybe I can——

Chairman GILMAN. Mr. Rohrabacher.

Mr. ROHRABACHER. Is it true the Budget Committee will then assume responsibility?

Chairman GILMAN. If this committee does not act, it is my understanding the Budget Committee can and will act on this.

Mr. ROHRABACHER. So today basically people are suggesting that they don't, they are not having their complete say, are willing to give up this committee's entire say to the Budget Committee and disrupt the process in the meantime.

Chairman GILMAN. Well, that could be an ultimate outcome of failure to act by our committee.

Mr. HAMILTON. Mr. Chairman?

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. Let me comment on this Senate situation as I understand it just so the record is clear, and I want to try to state it as accurately as I can.

The Senate had H.R. 1561 on the floor for about 6 hours over the course of 2 days, July 31 and August 1. During that time, 164 amendments were filed to the bill, two-thirds of them, incidentally, by Republican members. In the course of those 6 hours, the Senate disposed of 6 amendments and there were 5 other amendments pending.

Now, the Senate did have, as several of you have stated, 2 closure votes. They were both the same margin, 55-45, and they occurred a little over a 2-hour and 30 minute period.

So far as I can remember, it is the earliest in the process of considering a foreign aid or State bill that the Senate has attempted closure. It all occurred at a time when the House had begun sending appropriation bills to the Senate, so the majority leader of the Senate was faced with deciding between spending probably 2 weeks on this bill, H.R. 1561, the authorization bill, or moving the appropriation and the welfare bills, and he pulled the authorization bill. If I had been the majority leader, I would have done the same thing. I think it is the right decision, but that is what has happened with regard to the Senate process.

Chairman GILMAN. Thank you, Mr. Hamilton.

We are in recess momentarily because some of our members are on their way over to the committee room from their respective committees and we should be in a position to call for a vote in a few moments.

[Brief recess.]

Chairman GILMAN. My colleagues should be informed the Judiciary Committee, which is right around the corner, is in the process of a vote. As soon as that vote is over, we will have a few more members and be able to complete the number required. We are technically in a short recess. I would like to ask my colleagues to take their seats so that we can check the roll and then proceed.

[The Committee will resume its sitting.]

Chairman GILMAN. The unfinished business before the committee is the motion of the gentleman from Pennsylvania, Mr. Goodling.

As many as are in favor of Mr. Goodling's motion will say aye.

As many as are opposed will say no.

The ayes appear to have it.

Mr. HAMILTON. Mr. Chairman, roll call.

Chairman GILMAN. A roll call has been demanded. Is there a sufficient second?

The clerk will call the roll.

The CLERK. Mr. Chairman.

Chairman GILMAN. Aye.

The CLERK. Mr. Gilman votes yes.

Mr. Goodling.

[No response.]

The CLERK. Mr. Leach.

Mr. LEACH. Yes.

The CLERK. Mr. Leach votes yes.

Mr. Roth.

Mr. ROTH. Aye.

The CLERK. Mr. Roth votes yes.

Mr. Hyde.

Mr. HYDE. Aye.

The CLERK. Mr. Hyde votes yes.

Mr. Bereuter.

[No response.]

The CLERK. Mr. Smith.

Mr. SMITH. Aye.

The CLERK. Mr. Smith votes yes.

Mr. Burton.

Mr. BURTON. Aye.

The CLERK. Mr. Burton votes yes.

Mrs. Meyers.

Mrs. MEYERS. Aye.

The CLERK. Mrs. Meyers votes yes.

Mr. Gallegly.

Mr. GALLEGLY. Aye.

The CLERK. Mr. Gallegly votes yes.

Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Aye.

The CLERK. Ms. Ros-Lehtinen votes yes.

Mr. Ballenger.

Mr. BALLENGER. Aye.

The CLERK. Mr. Ballenger votes yes.

Mr. Rohrabacher.

Mr. ROHRABACHER. I would like to welcome my colleagues from the other side of the aisle to the hearing with a big aye.

The CLERK. Mr. Rohrabacher votes yes.

Chairman GILMAN. Regular order, please. The clerk will continue to call the roll.

The CLERK. Mr. Manzullo.

Mr. MANZULLO. Aye.

The CLERK. Mr. Manzullo votes yes.

Mr. Royce.

Mr. ROYCE. Aye.

The CLERK. Mr. Royce votes yes.

Mr. King.

Mr. KING. Aye.

The CLERK. Mr. King votes yes.

Mr. Kim.

Mr. KIM. Yes.

The CLERK. Mr. Kim votes yes.

Mr. Brownback.

Mr. BROWNBACk. Yes.

The CLERK. Mr. Brownback votes yes.

Mr. Funderburk.

Mr. FUNDERBURK. Yes.

The CLERK. Mr. Funderburk votes yes.

Mr. Chabot.

Mr. CHABOT. Yes.

The CLERK. Mr. Chabot votes yes.

Mr. Sanford.

Mr. SANFORD. Yes.

The CLERK. Mr. Sanford votes yes.

Mr. Salmon.

Mr. SALMON. Yes.

The CLERK. Mr. Salmon votes yes.

Mr. Houghton.

Mr. HOUGHTON. Yes.

The CLERK. Mr. Houghton votes yes.

Mr. Hamilton.

Mr. HAMILTON. No.

The CLERK. Mr. Hamilton votes no.

Mr. Gejdenson.

[No response.]

The CLERK. Mr. Lantos.

[No response.]

The CLERK. Mr. Torricelli.

[No response.]

The CLERK. Mr. Berman.

[No response.]

The CLERK. Mr. Ackerman.

Mr. ACKERMAN. No.

The CLERK. Mr. Ackerman votes no.

Mr. Johnston.

[No response.]

The CLERK. Mr. Engel.

Mr. ENGEL. I want to tell my friend Mr. Rohrabacher it is good to be here. I vote no.

Chairman GILMAN. Regular order.

The CLERK. Mr. Engel votes no.

Mr. Faleomavaega.

[No response.]

The CLERK. Mr. Martinez.

[No response.]

The CLERK. Mr. Payne.

Mr. PAYNE. No.

The CLERK. Mr. Payne votes no.

Mr. Andrews.

[No response.]

The CLERK. Mr. Menendez.

Mr. MENENDEZ. No.

The CLERK. Mr. Menendez votes no.

Mr. Brown.

Mr. BROWN. No.

The CLERK. Mr. Brown votes no.

Ms. McKinney.

[No response.]

The CLERK. Mr. Hastings.

Mr. HASTINGS. No.

The CLERK. Mr. Hastings votes no.

Mr. Wynn.

Mr. WYNN. No.

The CLERK. Mr. Wynn votes no.

Mr. McNulty.

Mr. McNULTY. No.

The CLERK. Mr. McNulty votes no.

Mr. Moran.

Mr. MORAN. No.

The CLERK. Mr. Moran votes no.

Mr. Frazer.

[No response.]

Chairman GILMAN. The clerk will call the absentees.

The CLERK. Mr. Goodling.

[No response.]

The CLERK. Mr. Bereuter.

[No response.]

The CLERK. Mr. Gejdenson.

Mr. GEJDENSON. No.

The CLERK. Mr. Gejdenson votes no.

Mr. Lantos.

[No response.]

The CLERK. Mr. Torricelli.

[No response.]

The CLERK. Mr. Berman.

[No response.]

The CLERK. Mr. Johnston.

[No response.]

The CLERK. Mr. Faleomavaega.

[No response.]

The CLERK. Mr. Martinez.

[No response.]

The CLERK. Mr. Andrews.

Mr. ANDREWS. No.

The CLERK. Mr. Andrews votes no.

Ms. McKinney.

[No response.]

The CLERK. Mr. Frazer.

[No response.]

Chairman GILMAN. The clerk will report the vote.

The CLERK. And this vote, there were 21 ayes and 12 noes.

Chairman GILMAN. Let the record show a quorum was present and the motion is agreed to.

The committee stands adjourned.

[Whereupon, at 3:58 p.m., the committee was adjourned, subject to the call of the chair.]

# APPENDIX

BENJAMIN A. GILMAN, NEW YORK  
Chairman

WILLIAM F. GOODLING, PENNSYLVANIA  
JAMES A. LEACH, IOWA  
TOBY ROTH, WISCONSIN  
HENRY J. HYDE, ILLINOIS  
DOUG BERKEUTER, NEBRASKA  
CHRISTOPHER H. SMITH, NEW JERSEY  
DAN BURTON, INDIANA  
JAN MEYERS, KANSAS  
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One Hundred Fourth Congress

## Congress of the United States

Committee on International Relations

House of Representatives

Washington, DC 20515

September 21, 1995

The Honorable Newt Gingrich  
The Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

In the interest of expediting consideration of H. R. 1756, "The Department of Commerce Dismantling Act," I will waive any further consideration of this bill by the Committee on International Relations without prejudice to our Committee's exclusive jurisdiction with regard to the export control functions in Section 202 and the international trade functions in Section 204.

In the course of several meetings held earlier this week under the auspices of the Majority Leader, Mr. Arme, the International Relations Committee and the Ways and Means Committee have agreed to maintain the status quo with respect to the jurisdiction of each committee over the offices and policy functions in a proposed unified trade office combining the current U.S. Trade Representative with the functions of the Trade and Development Agency and the programs of the Commerce Department's International Trade Administration and Bureau of Export Administration.

It is my understanding that the Majority Leader is in full agreement that our Committees will maintain vigilant oversight and jurisdiction over the proposed trade office in the following manner: the International Relations Committee will maintain its sole jurisdiction over export controls, export promotion, the United States Commercial Service, export insurance, OPIC, and the Trade and Development Agency. The Committee also will maintain its jurisdiction over export finance which we share with the Banking Committee.

The Ways and Means Committee will maintain its sole jurisdiction over trade negotiations, trade sanctions and remedies, import administration and representation to international trade bodies.

Both Chairman Archer and I would appreciate your confirmation of this jurisdictional understanding.

Our two committees will maintain joint jurisdiction over trade policy, operations of the new United States Trade Representative, and international economic policy consistent with the jurisdictional responsibilities outlined above.

Together with other members of this Committee, I will continue to work closely with Chairman Clinger of the Government Reform and Oversight Committee to ensure that the final package of trade-related legislative recommendations submitted to the House in the reconciliation bill fully reflects the interests and prerogatives of the International Relations Committee.

Accordingly, the International Relations Committee agrees to waive its jurisdiction of H. R. 1756 and requests to be discharged from further consideration of section 202 and 204. We do, of course, expect that conferees from our Committee will be appointed to the conference committee on the reconciliation bill with respect to these and other matters within our jurisdiction.

With best wishes,

Sincerely,



BENJAMIN A. GILMAN  
Chairman

cc: The Honorable Richard K. Arney  
The Honorable William F. Clinger  
The Honorable John Kasich  
The Honorable Bill Archer  
The Honorable Gerald B. H. Solomon  
The Honorable Lee H. Hamilton

## COMMITTEE PRINT

# TITLE VI—COMMITTEE ON INTERNATIONAL RELATIONS

SEC. 6001. RECOVERY OF COSTS OF HEALTH CARE SERVICES FOR PERSONNEL OF THE FOREIGN SERVICE OF THE UNITED STATES AND OTHER ELIGIBLE INDIVIDUALS.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a), by striking “and” before “members of the families of such members and employees” and inserting before the period “, and (for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)”;

(2) in subsection (d), by inserting “, subject to the provisions of subsections (g) and (h)” before the period; and

(3) by adding at the end the following new subsections:

“(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third party payer the reasonable costs incurred by the

1 Department of State on behalf of such person for health  
2 care services to the same extent that the covered bene-  
3 ficiary would be eligible to receive reimbursement or in-  
4 demnification from the third party payer for such costs.

5 “(2) If the insurance policy, plan, contract, or similar  
6 agreement of that third party payer includes a require-  
7 ment for a deductible or copayment by the beneficiary of  
8 the plan, then the Secretary of State may collect from the  
9 third party payer only the reasonable cost of the care pro-  
10 vided less the deductible or copayment amount.

11 “(3) A covered beneficiary shall not be required to  
12 pay any deductible or copayment for health care services  
13 under this subsection.

14 “(4) No provision of any insurance, medical service,  
15 or health plan contract or agreement having the effect of  
16 excluding from coverage or limiting payment of charges  
17 for care in the following circumstances shall operate to  
18 prevent collection by the Secretary of State under para-  
19 graph (1):

20 “(A) Care provided directly or indirectly by a  
21 governmental entity.

22 “(B) Care provided to an individual who has  
23 not paid a required deductible or copayment.

1           “(C) Care provided by a provider with which  
2       the third party payer has no participation agree-  
3       ment.

4           “(5) No law of any State, or of any political subdivi-  
5       sion of a State, and no provision of any contract or agree-  
6       ment, shall operate to prevent or hinder recovery or collec-  
7       tion by the United States under this section.

8           “(6) As to the authority provided in paragraph (1)  
9       of this subsection—

10          “(A) the United States shall be subrogated to  
11       any right or claim that the covered beneficiary may  
12       have against a third party payer;

13          “(B) the United States may institute and pros-  
14       ecute legal proceedings against a third party payer  
15       to enforce a right of the United States under this  
16       subsection; and

17          “(C) the Secretary may compromise, settle, or  
18       waive a claim of the United States under this sub-  
19       section.

20          “(7) The Secretary shall prescribe regulations for the  
21       administration of this subsection and subsection (h). Such  
22       regulations shall provide for computation of the reasonable  
23       cost of health care services.

24          “(8) Regulations prescribed under this subsection  
25       shall provide that medical records of a covered beneficiary

1 receiving health care under this subsection shall be made  
2 available for inspection and review by representatives of  
3 the payer from which collection by the United States is  
4 sought for the sole purposes of permitting the third party  
5 to verify—

6           “(A) that the care or services for which recov-  
7       ery or collection is sought were furnished to the cov-  
8       ered beneficiary; and

9           “(B) that the provision of such care or services  
10      to the covered beneficiary meets criteria generally  
11      applicable under the health plan contract involved,  
12      except that this subsection shall be subject to the  
13      provisions of paragraphs (2) and (4).

14          “(9) 7.5 percent of amounts collected under this sub-  
15      section or under subsection (h) from a third party payer  
16      or from any other payer shall be deposited as an offsetting  
17      collection to any Department of State appropriation and  
18      shall remain available until expended. Any other amounts  
19      collected shall be deposited in the Treasury as a mis-  
20      cellaneous offsetting receipt.

21          “(10) In this section:

22                “(A) The term ‘covered beneficiary’ means an  
23      individual eligible to receive health care under this  
24      section whose health care costs are to be paid by a

1       third party payer under a contractual agreement  
2       with such payer.

3               “(B) The term ‘services’ as used in ‘health care  
4       services’ includes products.

5               “(C) The term ‘third party payer’ means an en-  
6       tity that provides a fee-for-service insurance policy,  
7       contract or similar agreement through the Federal  
8       Employees Health Benefit program, under which the  
9       expenses of health care services for individuals are  
10      paid.

11              “(h) In the case of a person, other than a covered  
12      beneficiary, who receives health care services pursuant to  
13      this section, the Secretary of State is authorized to collect  
14      from such person the reasonable costs of health care serv-  
15      ices incurred by the Department of State on behalf of such  
16      person. The United States shall have the same rights  
17      against persons subject to the provisions of this subsection  
18      as against third party payers covered by subsection (g).”.

19              (b) EFFECTIVE DATE.—The authorities of this sec-  
20      tion shall be effective beginning 30 days after the date  
21      of the enactment of this Act.

22      **SEC. 6002. ENACTMENT INTO LAW OF H.R. 1561.**

23              H.R. 1561, as passed the House of Representatives  
24      on June 8, 1995 (relating to consolidation of foreign af-  
25      fairs agencies, foreign relations authorizations, and for-

1 eign assistance authorizations), except for sections 2203,  
2 2353, and 3103(c) of such H.R. 1561, is hereby enacted  
3 into law.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO THE COMMITTEE PRINT  
OFFERED BY \_\_\_\_\_**

Page 1, strike line 1 and all that follows and insert the following:

**1            TITLE VI—COMMITTEE ON  
2            INTERNATIONAL RELATIONS**

**3   SEC. 6001. RECOVERY OF COSTS OF HEALTH CARE SERV-  
4                            ICES FOR PERSONNEL OF THE FOREIGN  
5                            SERVICE OF THE UNITED STATES AND  
6                            OTHER ELIGIBLE INDIVIDUALS.**

**7            (a) AUTHORITIES.**—Section 904 of the Foreign Serv-  
**8   ice Act of 1980 (22 U.S.C. 4084) is amended—**

**9                            (1) in subsection (a) by—**

**10                            (A) striking “and” before “members of the  
11                            families of such members and employees”; and**

**12                            (B) by inserting immediately before the pe-  
13                            riod “, and for care provided abroad) such  
14                            other persons as are designated by the Sec-  
15                            retary of State, except that such persons shall  
16                            be considered persons other than covered bene-  
17                            ficiaries for purposes of subsections (g) and  
18                            (h)”;**

1           (2) in subsection (d) by inserting “, subject to  
2       the provisions of subsections (g) and (h)” after  
3       “treatment”; and

4           (3) by adding the following new subsections:

5       “(g)(1) In the case of a person who is a covered bene-  
6       ficiary, the Secretary of State is authorized to collect from  
7       a third-party payer the reasonable costs incurred by the  
8       Department of State on behalf of such person for health  
9       care services to the same extent that the covered bene-  
10      ficiary would be eligible to receive reimbursement or in-  
11      demnification from the third-party payer for such costs.

12       “(2) If the insurance policy, plan, contract, or similar  
13      agreement of that third-party payer includes a require-  
14      ment for a deductible or copayment by the beneficiary of  
15      the plan, then the Secretary of State may collect from the  
16      third-party payer only the reasonable costs of the care pro-  
17      vided less the deductible or copayment amount.

18       “(3) A covered beneficiary shall not be required to  
19      pay any deductible or copayment for health care services  
20      under this subsection.

21       “(4) No provision of any insurance, medical service,  
22      or health plan contract or agreement having the effect of  
23      excluding from coverage or limiting payment of charges  
24      for care in the following circumstances shall operate to

1 prevent collection by the Secretary of State under para-  
2 graph (1)—

3 “(A) care provided directly or indirectly by a  
4 governmental entity;

5 “(B) care provided to an individual who has not  
6 paid a required deductible or copayment; or

7 “(C) care provided by a provider with which the  
8 third-party payer has no participation agreement.

9 “(5) No law of any State, or of any political subdivi-  
10 sion of a State, and no provision of any contract or agree-  
11 ment shall operate to prevent or hinder recovery or collec-  
12 tion by the United States under this section.

13 “(6) As to the authority provided in paragraph (1)  
14 of this subsection—

15 “(A) the United States shall be subrogated to  
16 any right or claim that the covered beneficiary may  
17 have against a third-party payer;

18 “(B) the United States may institute and pros-  
19 ecute legal proceedings against a third-party payer  
20 to enforce a right of the United States under this  
21 subsection; and

22 “(C) the Secretary may compromise, settle, or  
23 waive a claim of the United States under this sub-  
24 section.

1       “(7) The Secretary shall prescribe regulations for the  
2 administration of this subsection and subsection (h). Such  
3 regulations shall provide for computation of the reasonable  
4 cost of health care services.

5       “(8) Regulations prescribed under this subsection  
6 shall provide that medical records of a covered beneficiary  
7 receiving health care under this subsection shall be made  
8 available for inspection and review by representatives of  
9 the payer from which collection by the United States is  
10 sought for the sole purpose of permitting the third party  
11 to verify—

12           “(A) that the care or services for which recovery  
13 or collection is sought were furnished to the covered  
14 beneficiary; and

15           “(B) that the provisions of such care or services  
16 to the covered beneficiary meets criteria generally  
17 applicable under the health plan contract involved,  
18 except that this paragraph shall be subject to the  
19 provisions of paragraphs (2) and (4).

20       “(9) Amounts collected under this subsection or  
21 under subsection (h) from a third party payer or from any  
22 other payer shall be deposited in the Treasury as a miscellaneous  
23 offsetting receipt.

24       “(10) For purposes of this section—

“(A) the term ‘covered beneficiary’ means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

“(B) the term ‘services’, as used in ‘health care services’ includes products; and

“(C) the term ‘third-party payer’ means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

“(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).”.

(b) EFFECTIVE DATE.—The authorities of this section shall be effective beginning on the date of the enactment of this Act.

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